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REPORT OF THE

WORKPLACE HEALTH AND SAFETY

REVIEW PANEL

TO THE MINISTER OF LABOUR

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Toronto, Ontario
December 20, 1995

Workplace Health and
Safety Review Panel

Comité d'examen sur la santé et
la sécurité au travail

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December 20, 1995

The Honourable Elizabeth Witmer
Minister of Labour
400 University Avenue, 14th Floor
Toronto, Ontario
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Dear Minister:

I am attaching the report of the Workplace Health and Safety Review Panel which you appointed in September, 1995. For convenience of those who read this report, I have attached the terms of reference and a list of Panel members on the next page.

The Panel thoroughly reviewed the current programs of the Workplace Health and Safety Agency and convened four days of "hearings" during which we received fifty-one briefs. In addition, we also received some eighty written submissions.

The Panel wishes to express its appreciation both to the staff of the Agency who cooperated fully with the review with outstanding professionalism, and to the individuals and organizations that took time to acquaint us with their views.

Some Panel members may not agree with all the recommendations and I have appended any dissenting views.

On a personal note, I would also express my appreciation to the panel members themselves for their generous contribution of time and their perceptive insights about how occupational health and safety can be improved in our province and also express my deep appreciation to Agency staff for its expert support and cheerful cooperation.

Yours truly,

Brock Smith
Chair

Attach.

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Terms of Reference

(1) Review the certification training requirements and make recommendations;

(2) Review the structure and functions of the Workplace Health and Safety Agency and determine how best to merge its activities with the Workers' Compensation Board (WCB) and other organizations, as appropriate;

(3) Review the structure of the Health and Safety Delivery Organizations;

(4) Report to the Minister of Labour on the financial implications of these changes to the WCB and any other organizations;

(5) Make recommendations to the Minister on the roles and accountabilities of the Health and Safety Delivery Organizations, the Ministry, WCB, employers and workers to ensure the efficient and effective use of resources to improve workplace health and safety, taking into account the administration of workplace health and safety in other jurisdictions.

Review Panel Members

Judith Andrew, Director of Provincial Policy, Canadian Federation of Independent Business

Ken Copeland, Acting President and CEO, Workers' Compensation Board

Pat Coursey, Assistant Deputy Minister, Ministry of Labour

Patrick Dillon, Executive Chairman, International Brotherhood of Electrical Workers Council of Ontario and President, Provincial Building and Construction Trades Council

Arthur Gladstone, Executive Director, Workplace Health and Safety Agency

Rick Houston, Executive Manager, Police Association of Ontario

Frank O'Rourke, Health and Safety Coordinator, IBM Canada Ltd.

Mary Roy, Vice-President, Environment and Regulatory Affairs, CCL Industries Inc.

Dr. Jorma Saari, Director, Centre for Occupational Health and Safety at the University of Waterloo, and holder of the Chair for the Prevention of Worksite Illness and Injury

Maureen Shaw, President and CEO, Industrial Accident Prevention Association

Brock Smith, Public affairs consultant and former Ontario deputy minister

II. SUMMARY OF RECOMMENDATIONS

Recommendation 1

A certification standard should apply to a minimum of two members of the joint health and safety committee, one worker and one employer representative. The training components should be more compatible with workplace needs and be flexible with respect to timing and delivery methods. The course content should be upgraded to remove redundancy and improve relevancy to each workplace and make it cost effective and accessible. As well, the policies regarding equivalency should be replaced with the concept of competency testing. The new program would consist of 1) a basic component applicable to all workplaces and 2) workplace-specific hazard training. (see p.13)

Recommendation 2

The sector-specific resource modules should be made available to the HSDOs and others who wish to use them, refine them, or complete them in accordance with the standards set by the Agency or its successor. (see p.14)

Recommendation 3

By July 1, 1996, the Agency's successor should develop a new certification standard, approve training materials, and officially recognize providers of the certification program. (see p.15)

Recommendation 4

Within two years, an independent assessment of the certification program should be completed. (see p.15)

Recommendation 5

The January 1, 1996 certification deadline for the completion of training for the designated rate groups should be extended to July 1, 1996. (see p.16)

Recommendation 6

Except for the designated rate groups which should complete training by July 1, 1996, training for others currently out of compliance under the existing program should continue in the interim along with an immediate review and amendment to the policies for category designation and equivalency. (see p.17)

Recommendation 7

Responsibilities for certification and HSDOs as well as certain other functions of the Agency should be transferred to the WCB under the guidance of a new memorandum of understanding between the Minister and the Chair of the WCB ensuring minimum levels of funding and that:

- ***injury and illness prevention and health and safety promotion are managed by a senior executive reporting to the President;***
- ***clear responsibility for these health and safety functions is vested with the WCB;***
- ***the WCB Board has representatives from the broad interests of the fields of compensation and prevention; and***
- ***the name of the WCB itself is changed to convey its health and safety responsibilities.***

The other functions would include: *training programs other than certification, promotion, research, accreditation, first aid, occupational health clinics, certification training for construction, small business advisory committee, and providing advice to the Minister of Labour.* (see p.19)

Recommendation 8

Responsibility for overseeing and funding the HSDOs should be transferred to the WCB. In order to complete the restructuring of the HSDOs, the WCB should

- ***establish an advisory committee composed of stakeholders, namely, users and providers of these services, including OHS specialists and appropriate government agencies;***
- ***commission a study on the governance of the HSDOs in relationship to the WCB itself;***
- ***better relate WCB premiums by rate groups to HSDO funding;***
- ***commission an independent value-for-money audit of the HSDOs by the Provincial Auditor;***
- ***commission a program review in the context of similar programs; in other jurisdictions; and***
- ***submit its recommendations to the Minister by July 1, 1996.*** (see p.39)

Recommendation 9

The responsibilities for workplace health and safety in Ontario should be clearly defined and monitored through the creation of a mutually agreed to strategic plan; a mutually agreed to performance monitoring system, the creation of an on-going strategic directions committee composed of senior Ministry and WCB officials, better sharing of data, and coordination of research priorities. Employers, workers, legislators and researchers must be fully involved in this process. (see p.47)

III. CERTIFICATION TRAINING

Terms of reference: "Review the certification training requirement and make recommendations."

Background

In 1990, Bill 208 amended the Occupational Health and Safety Act (the Act) to empower the Workplace Health and Safety Agency (the Agency) to develop requirements for the certification of joint health and safety committee (JHSC) members; to establish and administer the certification process, and to certify people according to requirements established under the Act and standards developed by the Agency. The Act requires that at least one management and one worker member of each joint health and safety committee be certified.

The process surrounding the actual development of the certification program has been the subject of controversy but it serves no purpose to re-hash that here.

The program was designed with three parts. Core certification training is a generic program intended to be suitable for the needs of all workplaces. After completing this part, participants develop for their workplace a hazard analysis and occupational health and safety (OHS) work plan. The third part of certification was to be a "sector specifics" training program. The Agency could also certify people on the basis that they had already obtained equivalent training, knowledge and experience.

For delivery of core training, workplaces were classified into one of three categories by size, complexity, whether or not and how designated substance

regulations apply, and the presence of hazards. These categories, in turn, determined the length of core training required.

The actual training program material was developed and produced by the Agency and delivered almost exclusively by the health and safety delivery organizations (HSDOs). By the end of August, 1995, some 50 per cent of the estimated 60,000 people targeted had received training. Fifty-seven per cent were in Category 3, 19 per cent in Category 2, and the balance were in Category 1. Two hundred and seventy-one people were granted "equivalency". The Industrial Accident Prevention Association (IAPA) delivered 39 per cent of the training and the Workers Health and Safety Centre, 47 per cent of the training. Table 1 sets out the training provided by each HSDO by numbers of managers and workers trained. Sector-specific training was not begun. The Agency identified more than 70 topics for possible hazard module development and proceeded with 53 of the hazard modules. These hazard modules were then to be modified to include sector-specific examples. Of the 20 sectors, only construction progressed to the point of pilot testing its program, in mid-November, 1995. The remainder of the program was suspended pending completion of this report.

Parts one and two of the certification program continue at the moment. Part three, sector-specific, with the exception of the construction sector, has been put on hold pending the outcome of this review.

Table 1. Summary of Certification Participants by Training Organization (to December 18, 1995)

ORGANIZATION	WORKER	MANAGEMENT	UNKNOWN	TOTAL
Workers Health and Safety Centre	8,850	6,558	9	15,417
Construction Safety Association of Ontario	648	396	0	1044
Electrical Utilities Safety Association	936	1,135	0	2,071
Ontario Natural Resources Safety Association	304	339	0	643
Industrial Accident Prevention Association	6,441	6,364	0	12,805
Transportation Safety Association of Ontario	301	473	0	774
Workplace Health and Safety Agency*	122	177	0	299
TOTAL	17,602	15,442	9	33,053

* Includes people granted equivalency and participants in pilot program

Submissions to the Panel

The Panel received a great many submissions expressing concerns about the certification program, as well as a limited number of submissions supporting the program as is. Amongst those who expressed concerns, few questioned the need for certification training. In the absence of a larger debate on the validity of certification, employers raised questions primarily about the length and method of delivery. More specifically, concerns were expressed about

- the restricted delivery method (traditional classroom style);
- the length of time in the case of Category 2, and especially in the case of Category 3;
- the cost imposed on employers relative to the apparent benefits, and the apparent duplication of WCB premiums and training fees;
- lack of material directly relevant to specific workplaces;
- difficulties in gaining "equivalency";
- the need to focus on certified training as opposed to the certification of individuals.

These criticisms were offered in a constructive manner. It should also be mentioned that the Tuohy report[1] noted that many of the participants thought the training provided a valuable experience. A more recent survey of participants commissioned by the Agency states that most of those who actually take the program feel that they receive positive value from it.[2]

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[1] This report will make frequent reference to the Ministerial Review of the Workplace Health and Safety Agency, Carolyn H. Tuohy, February, 1995.

[2] SPR Associates Inc., Highlights of the 1995 Survey of Certification Trainees; and Highlights of the 1995 Follow-up Survey of Certification Trainees (Preliminary Drafts), November, 1995.

What to do?

Clearly, the objectives of health and safety in the workplace are served by effective training programs. Training is, obviously, most effective when it is received with enthusiasm by workers and managers alike. Based on the submissions we received, it would seem feasible to redesign the certification training requirement in a way that maintains the necessary elements of the program, and even improves it, but makes it more congruent with the needs of the individual workplace.

Some may regard *any* change in the existing training requirements as a "weakening" of the program. However, we take the view that the effectiveness of any kind of training is surely not just a function of how long people spend in a classroom. Other elements also contribute to effectiveness, such as acceptance, relevance to the workplace, and ease and cost of access.

It is useful to point to some of the observations of SPR Associates, commissioned by the Agency, in their most recent review of certification training.

> Management trainees were also more likely than workers to rate the overall length of time required for the course as too long. While a substantial minority of management trainees (44.8%) rated the courses "too long", this view was shared by only 22% of worker trainees. *The result may indicate a need for either expanded equivalency access (for more highly trained managers), or a need for reviewing the criteria for assigning workplaces to categories of training (1, 2 or 3 weeks).* [emphasis added][3]

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[3] SPR Associates Inc., Highlights of the 1995 Survey of Certification Trainees (Preliminary Draft), November, 1995, p.iv.

The SPR report goes on to state that

> ... the 1995 results reaffirm that some changes are needed in the course to introduce more industry or *workplace relevance* to the course (particularly for non-industrial workplaces), and to *reduce redundancy* in review sections and in the third week of the course. As well, some changes may be desirable to deal with *management assessments that the course is generally too long* (a view not shared, as a rule, by workers). [emphasis in original][4]

Before addressing the future program, it is important to set out its purpose. The Panel believes that the purpose of the training is to acquaint the trainees with basic information to enable them to carry out their duties and to recognize unsafe situations. It is not intended to train health and safety experts. The trained committee members should be able to know where and when to call in these experts.

The Panel has examined the certification requirements in the context of the requirements of the Act and the need to ensure a viable long term program. The Panel heard several approaches to achieving this. The first entailed a blending of the current core program with more sector-specific material which could be delivered in more flexible and accessible ways. This approach builds on the present program and would make the best use of material already in place or under development. On the other hand, it is fraught with all the policy issues which plagued the original development of the material.

The Panel heard another approach which would take the program from the sector level to the workplace level. It would make the material workplace-specific and build on an employer's obligation to put in place a health and safety program. In order to put this into place, the role of the Agency would

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[4] ibid., p. ix

have to change from developing and controlling the content of material to setting standards and sanctioning training materials and trainers.

The second approach is favoured. The training program should be divided into two parts, namely a basic component and workplace-specific hazard training.

The basic component would consist of modules dealing with the law, hazard identification and control, accident investigation techniques, and resources available to assist in the prevention efforts. The basic component would apply to all workplaces. The role of the Agency's successor would be to develop the standards against which the training material developed by training organizations and trainers can be judged. The Agency's successor would not develop the program.

The workplace-specific hazard training component reinforces existing duties under the Act for an employer to develop a health and safety policy and program.[5] and to provide appropriate training and supervision. The provisions of the Act already presume the performance of a hazard assessment by the employer developed in conjunction with the health and safety committee. Thus, the workplace-specific hazard training component builds on the existing knowledge of hazards in the workplace and focuses the certified member training on understanding how these hazards arise and how they may be

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[5] An employer has duties under the OHS Act:

to provide information, instruction and supervision to a worker to protect the health or safety of the worker - Clause 25(2)(a)

to acquaint a worker ... with any hazard in the work - Clause 25(2)(d)

to prepare and review annually an OHS program - Clause 25(2)(j).

Clause 25(2)(d) presumes the performance of a hazard assessment. The program referred to in clause 25(2)(j) would include training, as required in clause 25(2)(a), in working with the hazards referred to in clause 25(2)(d).

eliminated or further controlled. Of course, the training of certified members is a minimum requirement and other workers exposed to these risks would also benefit from similar training.

The thrust of this section of the report is focused on the certification of worker and management members of the JHSCs in order to satisfy the conditions of the Act. But, obviously, this does not replace the responsibilities of the employer. Nor should occupational health and safety be thought of as a "staff" function delegated to the JHSC and its certified members. Hazard analysis and all other aspects of occupational health and safety must be an integral part of "line" operations of the workplace.

Who would provide this training and when would the trainees be certified? The hazard-specific material would be available in the community from trainers (who have themselves been officially recognized by the Agency) using materials which meet the Agency's or its successor's standards. The existing material which has been developed would be reviewed to see if it meets those standards, and if so, should be available to the community for use in training. The certified members would receive provisional certification after completing the first phase of the program and would receive final certification when the hazard-specific component is completed.

The Panel received submissions advocating that equivalency continue to apply. The Agency policy on equivalency expired in April, 1995. When it was in place, it was quite rigorous in application. Two hundred seventy-one persons were certified this way. Equivalency should be an ongoing method of certification and should be reinstituted by the Agency. It should be refocused to ensure the candidate has the knowledge to meet the standards for the basic component. In addition, once the hazards applicable to the workplace have been identified, the candidate could request testing on these without having to

take the hazard modules. Only candidates with significant relevant experience would be eligible for competency testing.

Recommendation 1: A certification standard should apply to a minimum of two members of the joint health and safety committee, one worker and one employer representative. The training components should be more compatible with workplace needs and be flexible with respect to timing and delivery methods. The course content should be upgraded to remove redundancy and improve relevancy to each workplace and make it cost effective and accessible. As well, the policies regarding equivalency should be replaced with the concept of competency testing. The new program would consist of 1) a basic component applicable to all workplaces and 2) workplace-specific hazard training.

This recommendation is consistent with the observations of Tuohy, who suggested that "greater latitude be given ...in recognizing equivalent training (and that) greater flexibility might also be exercised in allowing variances from the program in particular industrial settings ..."

The Agency has commissioned a study which provides an analysis of course delivery options which will facilitate implementation of the above recommendation.[6]

With enhanced flexibility in the organizations which would be recognized to deliver training material, there could arise disagreement over issues such as which training organization would provide the service, the method of training, and so on. The current Agency policy provides for the worker to decide which

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[6] Random Access Multimedia, Assessment of Training Delivery Options for the Certification Specifics Training Program, December, 1995.

HSDO will provide his or her training. The Panel considered whether the right to choose should be shifted to the employer, left as is, or provided to both parties to resolve, with disputes to be resolved by the Ministry of Labour inspectorate. The third option is preferred.

The Panel notes that a considerable amount of work has been initiated but not completed for sector-specific training. The question remains as to how to use this material in the future. In the construction sector, there has been agreement on the legitimacy of the approach and the material has been pilot tested. It is being revised so that it can be delivered in the coming months. In other sectors, only the hazard or resource modules have been or are being developed. These would appear to have a basis for use in workplace-specific programming.

Recommendation 2: The sector-specific resource modules should be made available to the HSDOs and others who wish to use them, refine them, or complete them in accordance with the standards set by the Agency or its successor.

It will be vitally important that these two recommendations are implemented in close consultation with workplace parties. The shift in the Agency's successor's role to that of a standard setter will mean that the previously agreed length of time for each phase of the program will be altered to accommodate different delivery methods without sacrificing quality. The standards themselves will need to be reviewed and commented upon by the workplace parties and their representatives before they are officially adopted. There may be some sectors, such as construction where the basic and sector programs can be modified to meet the new standards with the cooperation and acceptance of the employer and labour communities.

As noted above, the new body would concentrate on standard-setting rather than program development and delivery. In this regard, it would develop a standard for certification, but not the program itself, and officially recognize organizations and individuals to deliver the certification program. Recognition should not be a lengthy bureaucratic process. It should be on the basis of a limited number of objective criteria by which applicants show their ability to deliver a program consistent with the standard.

Recommendation 3: By July 1, 1996, the Agency's successor should develop a new certification standard, approve training materials, and officially recognize providers of the certification program.

The Agency, in the past, had commissioned studies to evaluate certification training. Obviously, evaluation is an activity the Panel would like to see continued. However, in future, it should be carried out independently of the Agency's successor, perhaps by the Ministry.

Recommendation 4: Within two years, an independent assessment of the certification program should be completed.

Interim Measures

There remains the issue of uncompleted training under the current program. The deadline for certain designated rate groups[7] was extended to January 1, 1996. All other sectors are at various stages of compliance.

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[7] On July 6, 1995, Ontario Regulation 334/95 changed the certification deadline to January 1, 1996 for workplaces employing between 20 and 500 workers in 23 rate groups in retail and wholesale trades, restaurants, hotels and motels, and other service sectors.

With respect to the designated rate groups, it would seem inappropriate to impose a deadline for completion of a program which, we recommend, should be recast in six months. There has been considerable interest expressed in developing a program which would be more accessible to the employers and workers in these rate groups. The Panel believes that, within a very short period of time, it would be realistic for the Agency to develop, consult on, and issue standards for the basic component of certification. These standards would be derived utilizing, in part, the existing core program. Once these standards are issued, the employer and worker representatives in the exempted sectors could apply to have their program approved. Once in place, the training would occur swiftly, since it would have the support of the management and labour leaders in the sector. It should be noted that the basic component of the training would be delivered in keeping with the new certification program which should be completed by July, 1996. In this way, the excluded sectors would be brought up to the same level of training as the other sectors and could commence the second phase at the same time as the others do.

Recommendation 5: The January 1, 1996 certification deadline for the completion of training for the designated rate groups should be extended to July 1, 1996.

With respect to other sectors, the Panel was concerned about further core certification training while the new program is being developed. It is important that this training continue.

As noted above, the length of training, especially the third week, has received some negative comment. It is feasible for the Agency to revise the criteria which are used to decide into which category a company representative falls so that they relate more closely to the injury and illness potential for a rate group and firm. In addition, a new equivalency policy could be introduced so

that workers and managers who have the knowledge and experience can qualify through competency testing. Finally, some companies may be able to provide the core program using alternative delivery mechanisms. The Agency should consider approving these where the worker and management certification trainees agree.

Accordingly, the existing training program should continue on an interim basis provided that certain elements of it are reviewed and adjusted.

***Recommendation 6:** Except for the designated rate groups which should complete training by July 1, 1996, training for others currently out of compliance under the existing program should continue in the interim along with an immediate review and amendment to the policies for category designation and equivalency.*

IV. INTEGRATION INTO THE WORKERS' COMPENSATION BOARD

Terms of Reference: "Review the structure and functions of the Workplace Health and Safety Agency and determine how best to merge its activities with the Worker's Compensation Board and other organizations, as appropriate."

A. Transfer to Workers' Compensation Board

This section deals with the issue of transferring Agency programs to the Workers' Compensation Board (WCB).

While most submissions to the Panel supported the transfer of health and safety programs to the WCB, two concerns were raised: (1) in the past, when the WCB was responsible for health and safety, it did not give this area sufficient attention; (2) the WCB, in future, will be preoccupied with its unfunded liability and, thus, will not be in a good frame of mind to give workplace health and safety the priority it deserves.

These are valid concerns, but they do not present a *prima facie* case. The first point relates to a perception that was formed many years ago and need not be valid today, if indeed it ever was. With respect to the second, there are a number of mechanisms that could ensure that adequate priority will be placed on health and safety in a reconstituted WCB. These are:

1) Through a memorandum of understanding or by Order-in-Council, the government can ensure that adequate minimum levels of funding continue to be made available to health and safety programs.

2) The government can structure the new governing body of the WCB to ensure that health and safety concerns are fully represented.

3) The WCB could internally restructure so as to integrate currently related programs of the Agency and the WCB. Thus, health and safety would be no mere appendage, but rather, a major, integral part of the WCB's operations, operating under a senior officer reporting to the CEO, and a preoccupation of its governing body.

4) The name of the WCB could be changed to convey its responsibilities for workplace health and safety. Its new name should clearly signal its prevention functions to its Board members, its employees and the public, while making it clear that the Ministry retains responsibility for enforcement.

Recommendation 7: Responsibilities for certification and HSDOs as well as certain other functions of the Agency (as noted below) should be transferred to the WCB under the guidance of a new memorandum of understanding between the Minister and the Chair of the WCB ensuring minimum levels of funding and that:

- ***injury and illness prevention and health and safety promotion are managed by a senior executive reporting to the President;***
- ***clear responsibility for these health and safety functions is vested with the WCB;***
- ***the WCB Board has representatives from the broad interests of the fields of compensation and prevention; and***
- ***the name of the WCB itself is changed to convey its health and safety responsibilities.***

B. Functions

This section looks at the various functions of the Agency and makes specific recommendations with regard to their disposition.

The functions and powers of the Agency were spelled out in section 16 of the Occupational Health and Safety Act and are as follows:

(a) to develop requirements for the certification of members of committees and other workers;

(b) to establish and administer, in accordance with the requirements of the Minister, the certification process including the training requirements of members of committees and other workers;

(c) to certify persons according to requirements established under this Act and standards developed by the Agency;

(d) to develop and deliver educational and training programs, purchase programs from other institutions and contribute to the development of safety programs by other institutions;

(e) to make grants or provide funds or both for the purposes described in clause (d);

(f) to promote public awareness of occupational health and safety;

(g) to provide funding for occupational health and safety research;

(h) to develop standards for first aid training and education and provide funding for first aid training;

(i) to develop requirements for the accreditation of employers who operate successful health and safety programs and policies;

(j) to accredit and revoke the accreditation of employers according to the standards developed by the Agency;

(k) to advise the Workers' Compensation Board if accredited employers operate in such a manner as to reduce the hazard to workers in the workplace;

(l) to advise the Workers' Compensation Board if employers fail to take sufficient precaution for the prevention of hazards to workers;

(m) to advise the Minister on matters related to occupational health and safety which may be brought to its attention or be referred to it;

(n) to oversee the operation of

(i) such occupational health and safety medical clinics as may be designated by regulation,

(ii) such safety and accident prevention associations as may be designated by regulation, and

(iii) such occupational health and safety training centres as may be designated by regulation;

(o) to make grants or provide funds, or both, to the organizations referred to in clause (n);

(p) to provide programs and services for a fee.

Certification and the administration of the HSDOs were the Agency's main preoccupations and are dealt with elsewhere in this report. Following are our recommendations with respect to the other functions.

Training programs other than certification: The Agency was to develop, deliver and fund educational and training programs and to contribute to the development of programs by other institutions. The Agency currently oversees the Musculoskeletal Injuries Prevention Program (MIPP) and the Workplace Hazardous Materials Information System (WHMIS) training program. Both are delivered by the HSDOs. As well, funding is provided to McMaster University

and the University of Toronto, for professional training programs, to the Ontario Centre for Ground Control Training, and to some other organizations, such as St. John Ambulance. The Canadian Centre for Occupational Health and Safety receives a grant to run its inquiry service. A project on physician education in workplace health is currently being managed by the Agency. ***This activity should continue, particularly with respect to central funding, training standards and coordination. The actual development of the programs should be done by HSDOs and other organizations, wherever possible, with rights to program material being generally available and the decision to invest based on an adequate market survey of needs, sound cost benefit analysis and availability of resources and skills.***

Promotion: In fulfilment of its mandate to promote public awareness of occupational health and safety, the Agency currently produces newsletters, brochures and videos, participates in conferences, trade shows and symposiums, conducts advertising campaigns, and promotes school programs. ***The Panel supports the continuation of a strong promotion function which is based on a well-defined strategy and data analysis. We also observe that promotion is most effective when its messages are developed in consultation with affected parties. The successor to the Agency must facilitate and coordinate with the delivery organizations, with the bulk of promotion to be carried out by the latter organizations.***

Research: Prior to 1993, the Agency administered grants for resource centres, research and other purposes from funds transferred from the Ministry of Labour. This program was curtailed when the Ministry terminated the transfer of funds due to government-imposed restraints. Currently, it is estimated that about $2 million is spent by the Ministry and its agencies on basic health and safety research. A number of submissions, as well as Carolyn Tuohy's report, recommended that the role of research programs in the overall context of

occupational health and safety be considered by the Agency and the Ministry, and a funding strategy developed.

A jurisdiction needs its own research for the following purposes:

- to have a sufficient factual foundation for practical prevention;
- to focus practical preventive efforts properly by understanding injury mechanisms correctly;
- to develop effective preventive programs and strategies, thereby creating competitive advantage;
- to know the effects of existing programs and activities;
- to educate competent professionals for prevention in companies and in HSDOs;
- to transfer international research results to the province;
- to deter the propagation of false information and consequent increase of risks; and,
- to have a neutral factual basis for multipartite discussions and decisions.

As musculoskeletal injuries cause half of the WCB compensation costs, ergonomic research and training programs should receive substantial support. A network of university resource centres, including the Institute for Work and Health, should be supported for doing research for the benefit of injury prevention.

Within the research agenda, there should be more emphasis on applied policy research, which is defined as research undertaken to help shape public policy approaches, having as its objective the achievement of reductions in injury and

illness rates and costs in Ontario. In particular, the Agency's successor should encourage and support applied research in the following areas:

- Patterns of health and safety problems in Ontario workplaces, and the magnitude and consequences of the same for workers' health status: Data collected by the Workers' Compensation Board could be used to better understand patterns of health and safety outcomes in Ontario workplaces and with this knowledge, it should be possible for government and regulatory agencies to formulate "tailored" interventions aimed at corrective problems, and then implement these on a "micro" basis. There is a need for more research focused on resolution of these patterns as well as research designed to test the feasibility and impacts of such micro intervention.

- Ways and means of improving access at the workplace level to currently available health and safety data and information resources: There currently exists a tremendous amount of useful data and information that could be used to benefit workers and organizations, but which is, for technical, skills-related or economic reasons, not accessible to many who could benefit. There is a need for research aimed at better understanding the barriers to information access and possible means of overcoming these barriers.

- Best management practices and occupational health and safety: There is a tremendous amount of opinion on this topic, but very little empirical research to support or refute the same. A better empirical understanding of successful management approaches would be of tremendous value to organizations trying to reduce injury and illness risks, and to policy makers seeking to encourage management and worker behaviours that will bring about health and safety improvements. Ideally, the research would substantiate a link between best management practices and improved health and safety performance.

- The promotion of effective health and safety systems through new or unique policy interventions: The goal of this type of research would be to study the usefulness of policy approaches, such as financial incentives and disincentives and self-regulation, and study the impact on overall health and safety performance in the province.

The Panel acknowledges the need for increased funding of research but is mindful of the scarcity of financial resources. When the memorandum of understanding between the Chair of the WCB and the Minister of Labour is reviewed, as recommended above, it should make reference to the priority of expanding Ontario's research effort and make a commitment to using the savings from program streamlining for this area. All funding needs to be done based on a coordinated strategy involving stakeholders which include the federal government and other provinces.

Accreditation: The Agency initiated development of an accreditation program, which, on the basis of their workplace health and safety programs and practices, could reward or penalize employers, through either the Ministry of Labour enforcement or WCB compensation systems or both. Quite apart from providing an incentive to employers to improve health and safety at their workplaces, an accreditation system would also be a valuable tool for the Ministry of Labour in directing its resources to those workplaces where they are most needed. A public consultation process was launched in January 1995, but there was no consensus on what form an accreditation program should take or whether there should even be one. Submissions to the Panel that mentioned accreditation were equally mixed. Accreditation is one of the positive approaches which can provide incentives to improvement at the workplace. One such incentive would be restricting government construction tenders to accredited companies. Another measure relates to the dissemination of best work practices on a community basis as noted in a recent report.[8] ***Accreditation is supported, in principle, namely, that there should be a voluntary system in place that recognizes an employer's occupational health and safety programs and practices, supplementary to the WCB experience***

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[8] Ignatieff, N., Best Work Practices and Health and Safety Outcomes, Toronto, December, 1995, pp. 22-24.

rating record, and offers appropriate incentives. Such a program would replace the WCB Workwell program.

First Aid: Under clause 16(1)(h) of the Occupational Health and Safety Act, the Agency was to develop standards and provide funding for first aid training. The Ministry of Labour has a corresponding responsibility to make a first aid regulation, which would reference the Agency training standard. In November, 1993, the Agency and the Ministry jointly published a first aid discussion paper for consultation. Also in late 1993, a first aid technical committee was established to review the comments received in the consultation and to advise the Agency and the Ministry on the development of the regulation and training standards. A draft training standard and a discussion paper on the administration of first aid delivery organizations, such as the Canadian Red Cross Society and St. John Ambulance, have been prepared. These documents were to be released with a draft Ministry of Labour first aid regulation for public consultation. ***The Agency's responsibility for first aid training should be transferred to the WCB.***

Occupational health clinics: The Agency currently funds the Occupational Health Clinics for Ontario Workers (OHCOW) which operates four clinics in Toronto, Hamilton, Sudbury, and Windsor. These clinics offer diagnostic, information and preventive services to workers, employers, joint health and safety committees, and health care professionals. The Agency currently provides some $4 million annually to OHCOW. In 1994, the clinics provided medical, nursing, occupational hygiene, and/or ergonomic services to 89 workplaces and 1,049 individuals, and responded to nearly 1,000 enquiries. The Panel considered the role of the clinics in the context of its other recommendations and concluded that their future functions must be looked at in the context of the transfer of Agency functions to the WCB, and their relationship to other programs that perform related functions. ***The Panel notes***

that this program has been in operation for seven years without any independent value-for-money audit. Such an audit should be undertaken as soon as possible.

Certification training for construction: In accordance with subsection 16(6) of the Act, the Agency receives funds from a special WCB levy on construction employers and uses it to pay for the certification training of construction workers. This levy was agreed to by representatives of management and labour in the construction industry. In 1994, core certification training was provided through these funds to more than 700 participants. The certification specifics training program for the construction sector was piloted in November, 1995. ***These funding arrangements should continue where there is agreement between management and labour in the construction industry.***

Small business advisory committee: Subsection 16(7) of the Occupational Health and Safety Act requires the Agency to establish a small business advisory committee. The committee that was established during the term of the Agency felt that it was not listened to. Whether such a committee should be recreated can be considered in the context of the new WCB governance structure. Whatever course is chosen, the WCB should be sensitive to the needs of small business at all levels of its operations.

Advice to Minister: The Occupational Health and Safety Act of 1978 established the Advisory Council on Occupational Health and Occupational Safety (ACOHOS), a multi-partite body with a mandate to provide advice to the Minister on a variety of occupational health and safety issues. Bill 208 terminated ACOHOS and transferred to the Agency the mandate to "provide advice to the Minister on matters related to occupational health and safety which may be brought to its attention or be referred to it" (section 16(1)(m) of

the Act). There is no apparent reason to preclude the WCB having this mandate, recognizing that it would not be the sole source of such advice.

V. HEALTH AND SAFETY DELIVERY ORGANIZATIONS

Terms of Reference: "Review the structure of the Health and Safety Delivery Organizations."

Beginning in the early part of this century, there has developed an extensive network of what are now referred to as health and safety delivery organizations, HSDOs for short. These accident prevention associations are permitted to be formed by employers of certain rate groups on a voluntary basis under provisions of the Workers' Compensation Act. The Agency is authorized to fund them as well as the medical clinics, and worker occupational health and safety training centres under provisions of the Occupational Health and Safety Act. There are currently seven HSDOs, the Construction Safety Association of Ontario (CSAO), Electrical Utilities Safety Association (EUSA), Industrial Accident Prevention Association (IAPA), Municipal Health and Safety Program (MHSP), Ontario Natural Resources Safety Association (ONRSA), Transportation Safety Association of Ontario (TSAO), and the Workers Health and Safety Centre (WHSC), and four medical clinics run by the Occupational Health Clinics for Ontario Workers. From 1978 to 1993, there were four resource centres located at universities in Waterloo, Thunder Bay, Kingston, and London. They provided information and technical services to business and labour in their communities.

This part of the report focuses on the HSDOs. Their purpose was and is to reduce and, hopefully, eliminate workplace injuries and disease through advisory services and training to employers and workers. They, generally, have operated as non-share capital corporations governed by a board of directors employing their own staff and also relying on volunteer networks. Funding was received from the WCB and fees paid by employers.

The HSDOs have traditionally provided consultation, information, technical studies, research, training, program development, and delivery. They depend upon a significant network of volunteers to get the accident prevention message out to the communities. The HSDOs represent the "helping" arm of health and safety services. They complement the stronger role of the Ministry inspectorate.

Because their genesis was through the voluntary association of employers, the HSDOs were predominantly regarded as "employer" organizations, although they provided services to workers and managers alike. All but one are "sector-oriented" as their programs were tailored to specific industries, e.g., mining, transportation, and so on. The IAPA offers programs which span thirteen discrete sectors among its clients.

In the early 1980's, an HSDO oriented specifically to workers, rather than a "sector" was created, as an arm of the Ontario Federation of Labour, called the Workers' Health and Safety Centre. Initially funded directly by the Ministry of Labour, it fell under the auspices of the WCB in 1985 and began receiving WCB funds paid from employer assessments.

Bill 208 gave responsibility for all HSDOs to the Agency and mandated that WCB funding would flow through the new Agency board which would decide how it would be allocated. It also mandated that, henceforth, HSDOs would be governed by "bipartite" boards, i.e., having equal representation of management and workers. This provision was later interpreted by the Agency to mean approved union representatives, with respect to workers.

Once established, the Agency, in exercising its HSDO governance function, sought to "streamline" the system through its newly established "power of the purse". The mining (Mines Accident Prevention Association of Ontario),

forestry (Forest Products Accident Prevention Association), and pulp and paper (Ontario Pulp and Paper Makers Safety Association) HSDOs, previously independent, were consolidated under a new body called the Ontario Natural Resources Safety Association (ONRSA) headquartered in North Bay. The Tourism and Hospitality Industry Health and Safety Education Program (THIHSEP) was melded into the IAPA. Funding for the Colleges, Universities and Schools Safety Council of Ontario (CUSSCO) and the Care-givers of Ontario Safety and Health Association (COSHA) was redirected to the Workers' Health and Safety Centre (WHSC). As well, many staff from these two organizations transferred to the WHSC. In addition, the IAPA and WHSC created a new bipartite umbrella body called the Council of Ontario Sectoral Health and Safety Organizations (Sectoral Council) in order to meet the requirements of legislation and the policy of the Agency. At present, the WHSC remains the sole delivery organization whose board of directors is not bipartite. While bipartite, the IAPA board contains union and non-union worker representatives.

Finally, in an effort to promote coordination and efficiency, three other HSDOs were mandated to share common services and facilities while maintaining their own governing structure. They are the Electrical Utilities Safety Association (EUSA), the Transportation Safety Association of Ontario (TSAO), and the Municipal Health and Safety Program (MHSP).

The Construction Safety Association of Ontario (CSAO) continued to function as it had in the past.

Operating within a global funding allocation from the WCB, the Agency reallocated funding to the various HSDOs. The net result of this is displayed in a table on page 34.

The Panel heard a great deal on the subject of the organization and operation of the health and safety delivery organizations from the HSDOs themselves, many business and government employer associations, some labour and professional organizations, individual businesses, training consultants, and so on. Each had an important story to tell and many made recommendations.

In an attempt to frame a recommendation, we tried to identify what common threads there were amongst the 100 plus submissions, and they are as follows.

First, Ontario has an extremely well-developed network of HSDOs. They are composed of very dedicated people, professionals, and volunteers, who take great pride in their work and, naturally, want to see it continue.

Second, everyone thinks there is still room for improvement. While accident rates are declining in Ontario[9], as they are in many other industrial jurisdictions, there still remains a long way to go and many ways of getting there. One area often cited as needing improvement is that of better coordinated and more efficient targeted service delivery.

Third, while bipartite governance did not work well at the Agency, with some exceptions, the transition to bipartite governance at the HSDO level has been a positive step whether within the Agency definition or otherwise.

Fourth, the maintenance of a strong relationship of trust between HSDOs and their clients, management and/or labour, is absolutely essential.

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[9] See Appendix C.

So, while there may be differences of opinion about the preferred future structure of the HSDO network, it is clear that whatever direction we choose to follow, Ontario has a strong base upon which to build.

As noted, the many submissions received by the Panel raised all kinds of concerns and challenges. The short time of our review does not permit us to go into all of the points contained in the submissions, but in general, they can be highlighted as follows:

- **Consolidation:** Measures to consolidate and streamline HSDOs have had mixed results. In the case of the Ontario Natural Resources Safety Association, all three of the industry employers' associations, i.e., the Ontario Mining Association, the Ontario Forest Industries Association, and the Pulp and Paper Manufacturers Association, have recommended that the earlier model involving three separate organizations be recreated. The Ontario Hospital Association, the Ontario Association of School Business Officials, the Ontario Separate School Trustees' Association and the Ontario Catholic Supervisory Officers' Association have also indicated dissatisfaction with the new "homes" of their safety associations. Some employer associations want a new HSDO to be created for the service sector, as distinct from the industrial/manufacturing focus of their current service provider. The co-location of EUSA, MHSP, and TSAO has not worked in the eyes of the Associations.

- **Funding:** A number of associations and HSDOs have raised questions about the equity of current funding arrangements which do not presently directly relate what sectors contribute through

WCB premiums and what they receive in turn through HSDO programming. This is illustrated in Table 2.

Table 2. Comparison of amounts levied from WCB Assessments with expenditures of organizations funded by the Workplace Health and Safety Agency, 1994.

Organization	Amount levied for WHSA from rate groups assigned to each HSDO ($)	Actual Expenditures ($)
CSAO	8,354,562	9,255,000
EUSA	267,659	2,203,700
IAPA	41,089,759	15,953,436
MHSP	782,393	459,900
ONRSA	2,696,552	4,740,909
TSAO	2,155,011	1,650,800
WHSC	5,580,013[1]	9,224,264
OHCOW		3,841,874
WHSA operating & grants[2]		21,431,354
TOTAL	60,925,947	68,761,237[3]

1 This represents the WHSA portion of assessments for the education and health care rate groups. The WHSC also serves clients in all of the other rate groups.

2 Includes grants/first aid/construction sector funding.

3 Of this, $62,007,400 is funded through the WCB.

- **Sector v. Dual Model:** Most employer associations express a strong preference for sector-oriented HSDOs, and, therefore, call into question the legitimacy of funding the Workers Health and Safety Centre. Some also call for a realignment of HSDO organizations based on WCB rate groups. The preponderance of submissions expressed a strong preference for realignment along sectoral lines. On the other hand, as noted by Tuohy[10], there are some who prefer a "dual model", which could eventually lead to only two HSDOs, one for employers and one for labour, with each controlling half of the available funds.

- **WCB:** As noted earlier, some question how much priority injury and disease prevention would receive in a reconstituted Workers' Compensation Board when they perceive it to have had a lukewarm approach to this field prior to 1990, and where the on-going issues of liability reduction will have to command so much future attention.

Given the diversity of opinion and the organizational complexity of the subject, one has to begin by laying out basic principles and drawing some lessons from recent history.

The first principle we would like to refer to is that of "trust", which was noted above. Time and time again, it was emphasized to the Panel that the effective operation of any HSDO depends on absolute trust between it and the client. Trust is something that does not come overnight, but rather through long association and "track record".

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[10] Tuohy, p.37

The second principle relates to efficiency and coordination, two sides of the same coin. The 1990's are seeing major changes in the way private and public organizations must operate in order to survive. Our society is increasingly intolerant of so-called "stove-pipe" structures which measure success by the amount they spend and how much turf they control. HSDOs, like other organizations, public and private, must rationalize and streamline their operations in a cooperative environment if they are going to be successful in the future.

On the other hand, we must also take a lesson from the short history of the Agency. Too much change imposed too quickly from too high above can create more problems than it solves. The dimensions of health and safety in Ontario are massive. There are about five million workers, 300,000 firms, thousands of union locals, hundreds of employer associations, not to mention the HSDOs themselves with their professionals and volunteers, other related groups, and government bodies. Substantive change will "take" a lot better when care is given to consult with and involve all aspects of this vast community.

Some other important concerns also must be kept foremost in mind in moving to a better system.

- Volunteers: HSDOs are supported by a vast network of dedicated volunteers who provide direct customer input and additional resources. They should continue to be part of any future model that is adopted.

- Sector Input: Each of the key sectors must always be closely consulted at both the labour and management levels.

- Grass Roots: Those involved in the front line of occupational health and safety delivery, management, labour and government, professionals and volunteers, need to be involved.

- Responsiveness to Clients: A new system has to be continually responsive to the needs of all clients to ensure that health and safety programs are relevant to those who use them.

- Balancing Contributions and Benefits: Program delivery to sectors should be, at least, roughly proportional to their financial contribution through WCB assessments.

- Professionalism: Strengthening the professional competence of employees in the HSDOS is important in the light of increasingly complicated technology and safety and injury problems. Enhanced educational quality will make it possible to deliver more effective and efficient injury prevention services.

The Panel sifted through a multitude of recommendations for new models of health and safety delivery. However, even though we received any number of constructive proposals, there is no way we could reach a workable consensus on a specific model in the time allowed. The Panel feels that its best contribution is to recommend the creation of a framework structure that will provide proper governance on an interim basis, and stands the best chance of working out a longer run solution. The Province should not try to leap from the current system to some brand new model nor should it scrap what has already been accomplished and go back to square one. Instead, it should initiate a process to find the better model by first clearly defining responsibilities and accountability in occupational health and safety, creating a structure that will both effectively govern the current system and orchestrate a process to create a new model that will be more efficient, better coordinated and accepted by the OHS community.

What specific steps are needed to accomplish this? We have already dealt with the issue of locating the Agency programs within the WCB and this would include responsibility for the HSDOs. At this stage, we believe that little would be gained by any immediate changes to the structure of the HSDOs except to

recognize that this structure must soon evolve into something better. Most members of the Panel believe that the responsibility for this change should rest with the Workers' Compensation Board. It should carry out the process of change in an expeditious manner so that by the end of six months the future role, mandate, and structure of the HSDOs is set out. The associations have never been audited from a value-for-money perspective. It would be prudent at this time to do so. In addition, the WCB should consider the services delivered by the HSDOs in order to ensure that they compare favourably with services provided by similar organizations in other jurisdictions. The review should also examine whether there is any duplication in the development and provision of services. To address the issue of the governance of the HSDOs, the WCB should commission a study of the alternative models, with particular attention being paid to the criteria noted above.

In order to receive the best advice possible during this interim period, the Panel believes that the WCB should establish an advisory committee on the role and governance of the HSDOs. The committee should be composed of the users of the services of the HSDOs as well as having representatives from the HSDOs themselves and appropriate government agencies. It should be chaired by the person who has been selected by the WCB to lead the health and safety function. In this way, the WCB would be able to provide the information from the above studies to the committee and receive its advice on how to change the organizations to improve service delivery, ensure more equitable funding, and reduce unnecessary costs.

The Panel believes that the memorandum of understanding between the Minister and the WCB Chair should incorporate the above matters.

Recommendation 8: ***Responsibility for overseeing and funding the HSDOs should be transferred to the WCB. In order to complete the restructuring of the HSDOs, the WCB should***

- ***establish an advisory committee composed of stakeholders, namely, users and providers of these services, including OHS specialists and appropriate government agencies;***
- ***commission a study on the governance of the HSDOs in relationship to the WCB itself;***
- ***better relate WCB premiums by rate groups to HSDO funding;***
- ***commission an independent value-for-money audit of the HSDOs by the Provincial Auditor;***
- ***commission a program review in the context of similar programs in other jurisdictions; and***
- ***submit its recommendations to the Minister by July 1, 1996.***

VI. FINANCIAL IMPLICATIONS

Terms of Reference: "Report to the Minister of Labour on the financial implications of these changes to the WCB and any other organizations."

The Agency's budget over its five-year period of operation is summarized in the attached table. From 1991 to 1994, total spending grew 15 per cent, from $55.5 million to $64.0 million. Within these totals, grants to HSDOs fell from $50.3 million to $43.5 million, while the Agency's own budget grew threefold, from $5.1 million to $16.7 million. For 1995, the Agency budgeted for yet another spending increase, most of which was already committed or spent when the government took its action to dismiss the Agency Board in August, 1995.

A special audit of the Agency was conducted during the fall of 1995, and released by the Minister in the Legislature on December 12, 1995. This audit was highly critical of expenditure management and program evaluation practices within the Agency.[11]

The Panel has noted that an interim budget has been prepared for the period January to June 1996 to tide the Agency through its transition period. It allows for the continuance of key Agency functions and implements the recommendations of the Provincial Auditor to "claw back" surplus funds in the system.

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[11] Office of the Provincial Auditor, Report on the Special Audit of the Workplace Health and Safety Agency, Toronto, December 6, 1995.

Table 3. SUMMARY OF HSDO FUNDING AND AGENCY EXPENDITURES: 1991 - 1995

HSDOs	1991 (Actual)	1992 (Actual)	1993 (Actual)	1994 (Actual)	1995 (Budgeted)
Construction Safety Association of Ontario	11,248,069	10,550,800	10,888,200	9,255,000	9,469,80
Electrical Utilities Safety Association	2,247,779	2,318,500	2,392,600	2,203,700	2,324,34
Industrial Accident Prevention Association *	19,263,214	18,139,400	18,688,000	15,953,436	16,161,19
Municipal Health and Safety Program	502,000	541,000	541,000	459,900	558,20
Ontario Natural Resources Safety Association **	5,715,251	5,405,600	5,844,323	4,740,909	4,842,11
Transportation Safety Association	1,886,272	1,881,800	1,942,027	1,650,800	1,700,32
Workers Health and Safety Centre ***	9,445,983	10,869,100	11,203,702	9,224,264	9,599,46
Total HSDOs	**50,308,568**	**49,706,200**	**51,499,852**	**43,488,009**	**44,655,44**
Occupational Health Clinics	0	3,300,000	3,841,875	3,841,874	4,080,565
Workplace Health and Safety Agency ****	5,175,865	7,033,523	8,474,580	16,668,015	19,782,96
Grand Total	**55,484,433**	**60,039,723**	**63,816,307**	**63,997,898**	**68,518,96**

* Includes Tourism and Hospitality Industry Health and Safety Education Program.

** Includes Mines Accident Prevention Association, Forest Products Accident Prevention Association and Ontario Pulp and Paper Makers Safety Association.

*** Includes College, University and School Safety Council of Ontario and Care-Givers of Ontario Safety and Health Association.

**** Excludes funding for grants, first aid, and construction sector training.

What will be the longer run financial implications of the recommendations in this report? There are three areas in which savings will arise, which are, first, the integration of administrative responsibilities into the WCB, second, the shift to standard-setting from program development, and third, the shift to a new model of program delivery. Applying the same standard to administrative streamlining currently being considered in some other Ontario government operations (e.g., a 30% reduction) could yield annual savings of about $7 million. The challenge to do better with less is being successfully met by other private and public organizations in our society and there is no apparent reason why that cannot happen here.

At the same time, it is important to note that the projected savings are in the area of administration and overhead. On the basis of information presented to the Panel, it is impossible to say whether current actual program dollars are just right, not enough or too much in terms of the public sector contribution to occupational health and safety. This should be the subject of the program evaluations referred to in Recommendations 4 and 8.

As noted earlier, the Panel strongly believes that a portion of savings be devoted to basic and applied research.

VII. FUTURE ROLES AND ACCOUNTABILITIES

Terms of Reference: "Make recommendations to the Minister on the roles and accountabilities of the Health and Safety Delivery Organizations, the Ministry, WCB, employers and workers to ensure the efficient and effective use of resources to improve workplace health and safety, taking into account the administration of workplace health and safety in other jurisdictions."

This is a tall order. Surprisingly, few of the submissions we received dealt with this part of the terms of reference. Whether this reflects satisfaction with the current system or just a reluctance to "take on" such a profound question is a moot point.

The Panel reviewed the administrative structure in other jurisdictions (see Appendix B). It is difficult to draw any firm conclusions from this survey because it includes any number of variations in terms of responsibilities for regulation, enforcement, prevention, training and compensation. Each jurisdiction evolves in its own way.

Until 1990, Ontario had developed a structure which saw the Ministry of Labour responsible for overall policy, regulation and enforcement of health and safety, as well as operating some training and prevention programs. The WCB was, of course, responsible for compensation and rehabilitation. It also had an umbrella responsibility for the HSDOs which carried on training and prevention programs. Under the "internal responsibility system" (IRS) first fully articulated by the Ham Commission, direct responsibility for health and safety lay with the line organization, from the board room to the shop floor. Contributive responsibility lay with the joint health and safety committees and other advisory functions. The internal dynamics of the IRS revolved around the duties of

employers, supervisors and workers and the rights granted to workers to participate, to know, and to refuse unsafe work.

The internal responsibility system, with its "direct" and "contributive" components as described by Ham, has been the bedrock of Ontario's approach to health and safety since passage of the Occupational Health and Safety Act of 1978. The Panel believes that the accountabilities of employers and workers through the internal responsibility system should be re-affirmed as the pivotal elements of workplace health and safety. They must continue to be supported by a community of organizations and individuals which, ideally, will work together in partnership to build the capacity within each workplace to fulfill health and safety responsibilities.[12]

Bill 208, passed in 1990, attempted to enhance the concept of the internal responsibility system by increasing the application of joint health and safety committees and, among other things, empowering one manager and one worker member to jointly stop work under certain conditions. And, as we know, it placed the HSDOs under the authority of the then new Agency, thus creating a three-part governing system, composed of the Ministry, the WCB and the Agency.

Only five years later, we have come to another crossroads in the evolution of workplace health and safety in Ontario with the proposed merger of the Agency functions back into the WCB. The combining of compensation and prevention responsibility under one roof is not unusual in Canada. This is the model used in British Columbia, Yukon and Quebec, and it has been recently adopted in New Brunswick. Indeed, given the obvious relationship, it seems eminently

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[12] Suggestions on policies and programs to further the goals of this community are provided in Ignatieff, N. op. cit.

logical that a compensation organization should also have responsibility for prevention. The mandate of the new health and safety function at the WCB should encompass all aspects of how work and workplaces may affect the health and safety of people at work. It should determine its priorities based on a consideration of various types of scientific evidence, causal illness and injury data, and other information drawn from the practices and priorities of other jurisdictions.

What about accountabilities? How can we be sure that the organizations with responsibilities for health and safety are (1) completely aware of their responsibilities, and (2) held accountable for them?

As noted, our system is founded on responsibility being in the workplace itself. And, of course, at the broad policy level, under our system of responsible government, the Minister of Labour and the government itself are responsible to the Legislature for workplace health and safety. But in between those two poles, it is important that the responsibilities and accountabilities of public organizations are more clearly defined.

The Minister has overall responsibility for defining strategic directions and responsibilities for health, safety, and compensation. This should be clearly distinguished from the roles of the operations arms of the Ministry and the WCB in carrying out these responsibilities.

Up till now, there has been a blurring of these responsibilities. The Ontario government's "KWIC Index to Services", purportedly the definitive version of who is responsible for what, refers to the Ministry of Labour "promoting...safe and healthy working conditions" and goes on to say that the Ministry is "assisted" in doing this by various agencies, such as the WCB.

It is interesting to note in this context that all of the most recent annual reports of the Ministry, the WCB and the Agency make only vague references to how they fit together in an overall system of responsibility and accountability for workplace health and safety.

Accordingly, the Panel suggests that the primary roles and responsibilities of the Ministry, WCB, and the HSDOs should be clearly defined to advance safe, fair, and harmonious workplace practices more effectively. The Panel further recommends that the primary role of the Ministry of Labour should be the setting, communicating and enforcement of standards.

A number of steps can be taken to determine how, under present legislation, the Ministry can fulfill its overall policy and operational responsibilities while clearly reinforcing and communicating the direct responsibilities and accountabilities of the WCB for compensation and health and safety. While some in the broader health and safety community may regard this as a somewhat "academic" exercise and say, " Look, just get on with it!", it is important that the many people in the governmental system who must deal with cases on a day-to-day basis have a clear understanding of what exactly is expected of them, who they are accountable to, and who or what will call them into account if things go wrong.

Putting this objective into operation will be dependent on:

- the establishment of a mutually agreed to strategic plan by the Ministry and the WCB to coordinate and complement roles, including that of WCB responsibility for HSDOs.

- the establishment of compatible systems between the Ministry, WCB, and the HSDOs to monitor the performance of the overall health and safety system and its individual components.

- the establishment of a committee to set strategic directions and ensure program delivery occurs in a complementary manner, made up of senior Ministry and WCB officials to meet and report regularly for the purpose of coordinating occupational health and safety activities, initiatives, and results.

- ensuring that there is a better sharing of data, publications and research initiatives.

Recommendation 9: ***The responsibilities for workplace health and safety in Ontario should be clearly defined and monitored through the creation of a mutually agreed to strategic plan; a mutually agreed to performance monitoring system, the creation of an on-going strategic directions committee composed of senior Ministry and WCB officials, better sharing of data, and coordination of research priorities. Employers, workers, legislators and researchers must be fully involved in this process.***

VIII. DISSENT

COMMENTS ON FINAL REPORT

OF THE WORKPLACE HEALTH AND SAFETY REVIEW PANEL

In terms of an overall general comment on the process, including the presentations and the development of the report, I have not heard or read evidence which would present a *prima facie* case that clearly indicates health and safety in the Province of Ontario would be better served by transferring this responsibility to the Workers' Compensation Board. Certainly there was anecdotal evidence presented by some groups, primarily employers. I am not convinced that the evidence presented would allow this committee to recommend, without reservation, the transfer of health and safety responsibility to the WCB. If we recall the Minister of Labour's comments to us, she stated that, at the end of the day, we should come up with recommendations which enhance health and safety in the workplace. It is my strong conviction that the only way to do so is through a separate agency solely responsible for this function. Directly related to this conviction to keep health and safety separate from the WCB are the effects I see of Bill 15. I have concerns over the ability of the Board of Directors of the WCB to have enough expertise to cover all the issues that they will face, particularly in light of the new purpose clause and the relatively small upper limit in the size of the Board of Directors. The Government wants insurance people, investment people, medical practitioners, labour, management and health and safety people to serve on the BOD. You will have a very small group of people, with very divergent interests trying to guide the WCB. I think this may be a recipe for disaster. This group is also recommended to give the Minister of Labour advice on health and safety. I would have grave concerns with this.

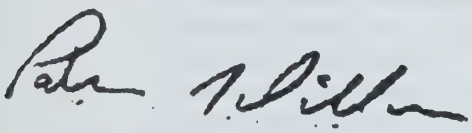
Much of the discussion on certification dealt with relevancy and length of time issues. I am in some respects sympathetic to these concerns. It is desirable to make all programs as relevant as possible to the target group. However, I think that the total length of time issue (core and sector specific) has been discussed at great length previously and further discussion is moot. I can see a need to be flexible in the amount of time allocated between core and sector specific, but the overall time allotment must remain the same. I am more convinced than ever, that we have to go to sector specific HSDOs that are bipartite. I have no illusions about my biases towards the construction industry but at the same time, I feel that I can look at the delivery of health and safety in an objective manner. It is clear in my mind, that construction is very different in its needs that it must be serviced by its own HSDO that is responsive to the construction industry. Those who work in construction, work in all sectors of the economy and thus have a need for a more diversified training program. I would also recommend that the Electrical Utilities Safety Association be given similar consideration.

Many of the presentations from employer groups contended that the Workers Health and Safety Centre was not a sector specific nor a bipartite organization, while at the same time indicating that the Industrial Accident Prevention Association was. In reality, both organizations are a mirror image of each other. Therefore comments on

one organization apply to the other. In any event success in the future will be totally dependent on the cooperative efforts of the labour market partners.
It would have been my preference that the Panel would have endorsed the concept of accreditation to the Provincial Government without reservation. The Provincial Government could easily implement a voluntary accreditation program that would assign some weight that would provide an incentive for accredited firms in the tendering process. It is my strong recommendation that the Provincial Government give consideration to an accreditation program for the tendering of all goods and services. As the largest purchaser of goods and services in Ontario, the Provincial Government would be making a huge policy statement on health and safety. It would be a win-win situation because it would not cost the government any money to implement this policy, yet they would clearly indicate that they are serious about the promotion of health and safety. The most obvious effects would be safer workplaces should such a policy be adopted.

There should have been unanimous support for the Health and Safety Delivery Organizations to be the sole agents of delivery and development of programs. There is no place for independent consultants in this process. The HSDOs should be sector specific and bipartite. I dispute with great conviction that bipartism doesn't work.

As a final overall thought, I hope that as a group, we did not look at health and safety as simply a cost burden to the employers of this Province. I hope that we were able to balance the cost to employers with the need to ensure that all workplaces are as safe as they can possibly be. The financial impacts on business alone cannot be the force that drives us to change the manner in which we deal with health and safety in this Province.



Patrick J. Dillon
Panel Member
Workplace Health and Safety Agency Review Panel

Appendix A

List of Submissions to the Workplace Health and Safety Review Panel

Appendix A

List of Submissions to the Workplace Health and Safety Review Panel

Written submissions were received from the following organizations and individuals. • • • indicates that an oral presentation was made:

Administrators of Medium-Sized Public Libraries of Ontario •
Alliance of Environment, Health and Safety Professions
Association of Physicians and Dentists in Public Service
Automotive Parts Manufacturers' Association •
AVOID Systems Inc.
Ballantyne, Lauren, OHS Officer, Ministry of Labour
Bankten Communications Services Ltd.
Blanco, Jose, Strategic Decisions Group, Laurentian University
Blue Owl Multimedia Publishing Inc.
Board of Trade of Metropolitan Toronto, The •
Canadian Chemical Producers' Association, The
Canadian Institute for Radiation Safety •
Canadian Manufacturers of Chemical Specialties Association
Canadian Manufacturers' Association •
Canadian Petroleum Products Institute
Canadian Red Cross Society •
Canadian Society of Safety Engineering (CSSE) Golden Triangle Chapter
Care-givers of Ontario Safety and Health Association (COSHA) Management Directors •
Chemical Sector Management Steering Committee •
Christian Labour Association of Canada
Coldwell Banker Peter Benninger Realty
Computer Boat Search
Connors, John, Ontario Natural Resources Safety Association •
Construction Safety Association of Ontario •
Council of Ontario Construction Associations •
Council of Ontario Universities •
Counselling Services of Belleville & District
Credit Union Central
Cronish, Robert C., Q.C. & Associates, Barristers & Solicitors
Downtown Pontiac (St. Mary's) •
Duggan Harvey & Associates, Outsource Service •
Eastwood, Thomas, Ministry of Labour, Kitchener District Office Inspectorate •
Electrical Utilities Safety Association •
Employers' Advocacy Council •
Federation of Temporary Help Services •
Finnie Distributing Ltd. •
Geddes, J. Ronald
Grocery Products Manufacturers of Canada
Hammond Fuels Ltd. •
Human Resources Professional Association of Ontario •
IBM Canada Ltd. •
Industrial Accident Prevention Association •
Innisfil, Town of

Institute for Risk Research *
Institute for Work & Health *
International Brotherhood of Electrical Workers
International Efficiency Institute *
John A. Ford & Associates - Training Services *
Kells, Paul *
Kingston, Frontenac and Lennox & Addington Health Unit
Lakehead University Resource Centre for Occupational Health and Safety
Lederer, Jean
Lee, Marilyn
Link to Life Seminars Inc.
Management Advisory Committee *
Mathews, Dinsdale & Clark
Mattawa & Area Forestry Committee
McWaters, Laura, Service Employees Union, Local 183
Medcan Health Management Inc.
Menkes Developments Inc.
Moore, Neil, Certified Worker JHSC Member
Motor Vehicle Manufacturers' Association
Municipal Electric Association *
Municipal Health and Safety Program *
Nixon, Charlie
Occupational Disease Panel
Office & Professional Employees International Union, Local 343 *
Ontario Association of Fire Chiefs
Ontario Association of School Business Officials, Health & Safety Standing Committee *
Ontario Association of School Business Officials Workers' Compensation Committee
Ontario Automotive Dealers Association *
Ontario Catholic Supervisory Officers' Association
Ontario Chamber of Commerce *
Ontario Fabricare Association *
Ontario Forest Industries Association *
Ontario Health Providers Alliance
Ontario Home Builders' Association *
Ontario Hospital Association *
Ontario Hotel & Motel Association *
Ontario Meat Packers of the Canadian Meat Council
Ontario Medical Association
Ontario Medical Association Section on Occupational and Environmental Medicine
Ontario Mining Association *
Ontario Ministry of Labour, Operations Division
Ontario Municipal Health and Safety Representatives Association *
Ontario Nurses Association *
Ontario Police Health & Safety Association *
Ontario Professional Fire Fighters Association
Ontario Pulp & Paper Industry's Safety Association, Niagara Branch
Ontario Restaurant Association *
Ontario School Bus Association
Ontario Separate School Trustees' Association
Ontario Trucking Association
Ontario Waste Management Association
OPSEU Chair, Ministry of Labour Employee Relations Committee
Oro-Medonte, The Corporation of the Town of
Phoenix OHC, Inc. (formerly Occupational Health Centre at Queen's University)

Pouliot, Gilles, MPP, Lake Nipigon, letters from constituents
Provincial Building and Construction Trades Council of Ontario •
Provincial Labour-Management H & S Committee of the Construction Indus. •
Registered Insurance Brokers of Ontario
Retail Council of Canada •
Retail Task Force (Dylex Ltd., Hudson's Bay Co., The Oshawa Group Ltd.) •
Robertson, Dilys •
Rockwell International of Canada North American Truck Systems
Roossien, Hank •
Rubber Association of Ontario •
Safety Connection •
Saskatchewan Wheat Pool
Scott, Barbara
Seymour, William C., County of Lambton Personnel Department
Springwater, Township of
Spruce Falls Inc., Joint Health and Safety Committee
St. John Ambulance, Ontario Council and The Canadian Red Cross Society
Stark, Bill and Gibson McIlwrath, Ministry of Labour inspectors
Thunder Bay and District Injured Workers Support Group
Thunder Bay Hydro
Tickner & Associates
Toronto Secondary Teachers Unit (Ontario English Catholic Teachers Assn) •
Toronto Workers Health and Safety Legal Clinics •
Transportation Safety Association of Ontario •
University of Western Ontario

Appendix B

Administration of Workplace Health and Safety in Selected Jurisdictions

ADMINISTRATION OF WORKPLACE HEALTH AND SAFETY IN SELECTED JURISDICTIONS

Prepared for the Workplace Health and Safety Review Panel

by the

Department of Policy and Research
Workplace Health and Safety Agency
November 1995

INTRODUCTION

The terms of reference of the Workplace Health and Safety Review Panel call for recommendations on roles and accountabilities of existing organizations and workplace parties in Ontario, taking into account the administration of workplace health and safety in other jurisdictions. To illustrate the range of possible approaches, this report examines occupational health and safety (OHS) systems in the following jurisdictions:

- United States (federal jurisdiction)
- Finland
- Germany
- Great Britain
- Victoria (Australia)
- Québec
- British Columbia
- New Brunswick
- Alberta

This review also provides an overview of the Framework Directive of the European Union since that affects OHS in member countries which include Finland, Germany and the United Kingdom.[1] Also, in regard to Victoria, the role of the national Australian government is considered to give a complete picture of OHS in that state.

The systems in each jurisdiction are described with reference to the following key functions:

- development of policy and legislation
- enforcement
- prevention programs including consultation, technical assistance, education, information dissemination, promotion, and training for managers, workers, and/or OHS professionals
- research
- financial incentives, including workers' compensation experience rating

The commentary on each jurisdiction also includes:

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[1] The United Kingdom includes Northern Ireland and the Channel Islands in addition to England, Scotland, and Wales. Great Britain includes only England, Scotland, and Wales.

- roles and accountabilities of key organizations, including:
  - membership composition (bipartite, tripartite, or multipartite)
  - type of power (executive or advisory)
  - relationship to government (direct or arm's length)
- funding sources:
  - general tax revenue
  - employer's workers' compensation assessment
  - penalty assessments or fines
- mechanisms for stakeholder input
- general strategic approach:
  - the balance between enforcement, persuasion, incentives, and prevention programs and research

ADMINISTRATION OF OHS IN SPECIFIC JURISDICTIONS

A. United States - Federal Jurisdiction

The primary organization responsible for OHS is the Occupational Safety and Health Administration (OSHA), a branch of the Department of Labour. It administers the Occupational Safety and Health Act for both public and private sectors in 23 states and for the private sector in two additional states. The other 25 states operate their own programs after receiving permission from OSHA. OSHA carries out the following functions: standard setting, enforcement, training and education, and consultation. It is responsible for regulating all sectors, except for mining which is administered by the Mining Safety and Health Authority (MSHA).

The second major organization is the National Institute for Occupational Safety and Health (NIOSH), a branch of the Department of Health and Human Services, Centres for Disease Control and Prevention (CDC). NIOSH conducts research, makes recommendations for the prevention of work-related injuries and illnesses, and provides technical assistance including hazard evaluations at workplaces.

OSHA and NIOSH both play a part in training. OSHA operates a training centre for workers and managers while NIOSH conducts training for OHS professionals. Both OSHA and NIOSH are funded by general tax revenues.

Although there are mechanisms for stakeholder input, they are advisory and do not play a prominent role in the system. A National Advisory Committee of Occupational Safety and Health advises OSHA and NIOSH. As well, there is an Advisory Committee on Construction Safety and Health and various ad hoc committees. Committees generally include members representing labour, management, state agencies and designees of the Department of Health and Human Resources.

The National Safety Council, a non-governmental organization, also plays an important role. In addition to OHS, the Council is involved in public safety and environmental health issues. In OHS its activities include education, training, promotion, consulting, and advocacy. The Council is governed by an 85-member Board of Directors representing business, labour local, chapters, community groups, trade and professional associations, schools, and individuals. It is a non-profit organization funded by members' dues, sale of products, fees for training and consulting, and donations and grants. It accepts no government subsidies.

General Strategic Approach

The emphasis is on enforcement of standards by the inspectorate. There are minimal legislative requirements for worker participation. Although worker participation is a condition of membership in the Voluntary Protection Program (VPP), an incentive program which offers reduced government inspection, few employers participate in that program. Workers' compensation is generally under state jurisdiction, administered by private insurers, and not linked with OHS regulation in the federal jurisdiction.

OSHA has recently indicated plans to put greater emphasis on selective enforcement. Employers who are capable of effective self-regulation would receive less government monitoring. In addition, OSHA is interested in implementing a program started in Maine, in which poor performers who contract with the government to develop effective OHS programs, including worker participation, are subject to reduced government monitoring.

United States (Federal) - Facts and Figures

Level of unionization - 15.8% (1993)

OSHA

Budget: $312 million = $Cdn 421 million
Staff: 2200
Size of Workforce: 93 million

NIOSH

Budget: $133 million = $Cdn 179.6 million
Staff: 800

Note: The House of Representatives has proposed a 25% cut to the NIOSH budget as part of its plan to phase out NIOSH over 4 years.

B. European Union (EU)

The European Union currently has 15 member nations: Germany, France, Italy, Belgium, the Netherlands, Luxembourg, Spain, Portugal, Greece, Ireland, the United Kingdom, Denmark, Sweden, Finland, and Austria. The legal tools for harmonizing standards in EU member countries are framework directives which establish basic principles and other detailed and specific directives which fit within that framework.

The Framework Directive on Safety and Health of Workers at Work covers public and private sectors. It requires employers to take a proactive approach with an emphasis on the systematic prevention of risks. Employers have a general duty to ensure workers' health and safety. More specifically, employers must:

- evaluate risks in the choice of work equipment, chemicals, and workplace design;
- integrate preventive measures into the company's operation at all levels;
- inform workers and/or their representatives of risks and preventive measures taken;

- consult workers and/or their representatives on all health and safety matters;
- provide initial and updated training on hazards;
- ensure that appropriate health surveillance is available;
- protect particularly sensitive risk groups; and
- keep records of accidents and injuries.

The Directive contains general principles of prevention including adapting the work to the individual, which is characteristic of a broad view of occupational health and safety akin to the Scandinavian concept of "work environment". While the Directive calls for informing, consultation, balanced participation and training of workers and their representatives, that obligation can be met in accordance with national laws and/or practices.

Workers and their health and safety representatives have the rights to consult in advance with employers, receive adequate paid time off work to fulfil their health and safety functions, and inform inspectors about hazards during workplace visits. The Directive does not specifically mention health and safety committees. Workers are also protected against reprisals for refusing dangerous work, again in accordance with national laws and practices.

It is important to note that the preamble of the Framework Directive reflects a principle common to much other EU legislation -- special treatment for small and medium-sized organizations. It states that the directives must avoid imposing administrative, financial and legal constraints which would impair the creation and development of these enterprises.

Although EU directives technically have the force of law in member countries, there can be serious problems in implementation due to lengthy delays in incorporating requirements into national law, considerable variation in members' labour relations and social systems, and the inability of EU authorities to monitor compliance.

C. Finland - An Example of the Scandinavian Approach

As is typical in Scandinavian countries, OHS in Finland occupies a relatively high profile and is administered by a variety of organizations. The Occupational Safety and Health Division and Working Environment Division of the Ministry of Labour are responsible for inspection and enforcement. As well, the Ministry plays a role in regard to legislation development, enforcement and international co-operation in research. Ministry inspectors give advice and guidance on OHS legislation as well as on questions about employment security and discrimination. The government also fulfils a substantial function in regard to occupational health services. In this area the Department for Health Promotion and Prevention of the Ministry of Social Affairs and Health monitors training, develops legislation and monitors compliance, including compensation for the costs of occupational health care. The Advisory Board for Occupational Health Care plans and develops occupational health care. It operates on a multipartite basis at arm's length from government and is accountable to the Ministry of Social Affairs and Health.

The Finnish Institute of Occupational Health plays the primary role in regard to research, specialist advisory services, and information dissemination and training for OHS personnel and professionals. Its staff also prepare OHS programs for specific workplaces. It operates at arm's length from government and is accountable to the Ministry of Social Affairs and Health. It is exclusively funded by general revenue and governed by a tripartite Board of Commissioners. Despite Finland's relatively small population, the Institute with a staff of over 500 is, after NIOSH, the second largest of its type in the world. Roughly 60% of the Institute's budget goes to research.

The Centre for Occupational Safety provides services for labour and employers' organizations, training and assessment for individual worksites, education and information, and expert services. The Centre maintains a register of occupational safety personnel at worksites and regularly communicates practice-oriented information and training material to this group of 80,000 individuals which includes safety supervisors, delegates and representatives. The Centre operates on a bipartite basis and is funded by the Work Environment Fund.

The Work Environment Fund is funded by accident insurance premiums paid by employers. It funds the Centre for Occupational Safety and also provides training, information dissemination, and research on methods and products for improving the work environment and industrial production. Typically, specific industries and employers also contribute to the funding of specific projects. The Fund provides grants in response to awards applications and awards scholarships. It operates at arm's length from government, is accountable to the Ministry of Labour and is governed by a bipartite Board of Directors.

General Strategic Approach

The Scandinavian countries share the following general characteristics in their approach to occupational health and safety:

- division of responsibilities among a variety of organizations funded through a variety sources;
- a broad, holistic definition of OHS which incorporates the concept of the "whole person, whole environment", acknowledging the importance of factors such as hours of work, psychosocial effects, and ergonomics;
- an emphasis on research and development;
- utilization of inspectors in a dual capacity as enforcers and consultants;
- a focus on process and "safe systems" approach through prevention programs at the firm level;
- strong recognition of worker participation, reflecting the very high level of unionization

Consistent with the general features of Scandinavian systems, the Finnish approach is characterized by an extremely strong research focus and a very active educational component in primary schools, vocational institutions, colleges, and universities. There is comprehensive training for inspectors including ergonomics and psychology. Enforcement is a significant component, although penalties are rarely imposed and the level of fines is moderate.

Workers' compensation is issued by private insurers. While a combination of collective assessment and experience rating is generally applied, assessment for the largest firms is based entirely on experience rating.

Finland - Facts and Figures

Level of unionization: 90% (1988)

Ministry of Labour

423 inspectors (1992) (378 field level)

Centre for Occupational Safety

Budget: FIM 9 million = $Cdn 2.9 million

Work Environment Fund

Budget: FIM 35 million = $Cdn 11.2 million: (25% to Centre for Occupational Safety, 75% for Research and Development, training, and consultation, supplemented by contributions from industry for specific projects)

Finnish Institute of Occupational Health

Budget FIM: $109.5 million (1993) = $Cdn 61 million (service revenues 31%; state funding 69%)
Staff: 576 (1993)

D. Germany

In Germany's federal system, the administration of OHS is complex with the federal government, 11 state governments, and sector-specific accident prevention associations all playing a significant part. OHS law has two sources: public labour law and social insurance legislation. In addition, federal states may also issue their own laws and orders.

The social insurance legislation is contained in the State Insurance Code. This provides for workers' accident insurance funded by employers and administered by accident insurance associations which are managed jointly by employers' and employees' representatives. The Code requires the accident insurance associations to use all appropriate means to prevent accidents at work and in particular to issue regulations. These regulations are ratified by the Federal Ministry or the federal states and are legally binding on the members of the appropriate insurance association. In general, they differ from federal legislation in that they deal with specific machinery and technical processes rather than rights and responsibilities and major hazards affecting a broad range of employment.

Germany has a dual system for enforcing these two groups of legislative provisions. First, there is a Labour Inspectorate organized on regional lines by the Labour Ministries of the states. These inspectors also deal with environmental protection. Second, there is a Technical Inspectorate employed by the accident insurance associations to enforce their regulations and advise member organizations on safety.

The Federal Ministry for Labour and Social Affairs has responsibility for developing national policy and legislation on labour protection, and handles co-operation between the two Inspectorates by issuing administrative instructions.

The Federal Institute for Occupational Safety and Health (BAU) advises the Ministry on technical matters, produces guidance material for OHS advisers, runs seminars and conferences and develops learning packages for use in colleges, conducts and commissions research, and maintains an occupational safety and health information centre.

The industrial accident insurance associations have their own active research and testing centre – the BG Institute for Occupational Safety. In addition to developing and enforcing technical requirements, the associations operate extensive safety training programs within firms, take the lead in testing to ensure equipment meets safety standards, and provide occupational health services.

There are also private institutions within the health and safety system. Particularly important are 11 Technical Inspection Associations which are independent technical consulting organizations and which are recognised under the Industrial Code to perform certain statutory inspections of hazardous plants.

Equally important is the German Standards Institute, a private corporate body which draws up standards for the design and safe use of plant, machinery and equipment. Its governing body includes representatives of government, employers, trade unions, and consumers. The technical standard-setting work is carried out by a number of representative specialist committees and is largely in response to requests from clients who may be government, industry, or the accident insurance associations. There are also other standard setting bodies, such as the Association of German Electrotechnicians.

General Strategic Approach

Education, training, enforcement, research and experience rating are all key elements. OHS administration in Germany should be understood in the context of the overall structure of labour relations, in which a small number of unions joined in strong central federations bargain with well-organized sectoral associations of employers. In addition, the employer associations are united in a strong national organization. Employers are legally required to involve workers in decisions affecting the work environment, both at the workplace and at higher levels. This is achieved in two ways:

- through mandatory employer consultation with and reporting to works councils elected by employees;

- through co-determination laws requiring employee representation on the "supervisory boards" of large companies. Supervisory boards are required by law and monitor certain functions performed by "managing boards", which manage the organization's day-to-day affairs.

Firms also have a Labour Protection Committee which consists of individuals concerned with health and safety and which is required by law to meet at least once a quarter.

Germany - Facts and Figures

Level of unionization: 41%

Federal Institute for OHS

Staff: 400

Labour Inspectorate

Staff: 3329 inspectors and 100 medical inspectors (1992)

Accident Insurance Associations

Staff: 2056 inspectors covering 22 million employees (excludes 3 states) 1992

E. Great Britain

Most prevention functions are concentrated in two closely-related organizations – the Health and Safety Commission (HSC) and the Health and Safety Executive (HSE). In effect, the HSE is the operating arm of the HSC. Local governments also play a part by enforcing the national legislation in offices, retail, and the hospitality sectors.

The Health and Safety Commission is a multipartite organization of up to 10 people appointed by the Secretary of State for Employment after consultation with stakeholders. The Commission appoints the three-member Health and Safety Executive, proposes laws and standards, and maintains an employment medical advisory service. It has considerable independence from government and is primarily accountable to the Secretary of State for Employment. It is accountable to other ministers in relation to several other areas including the nuclear industry, railways, transportation of dangerous goods, and pesticides. The HSC is constituted on a multipartite basis and carries out wide consultation through advisory committees and public comment.

The Health and Safety Executive advises the HSC and is responsible for almost all essential OHS functions including enforcement, advice and audit, inspector training, research, and liaison with local authorities. The HSE is accountable to the Health and Safety Commission and the Secretary of State for Employment, with exceptions relating to the above-mentioned sectors. The HSE extensively utilizes bipartite advisory committees, with experts added where considered appropriate.

Compulsory workers' compensation insurance is provided by the private sector and workers may also sue their employers for negligence. Although there is no government integration or co-ordination of the compensation and prevention systems, the insurance companies may provide preventive advisory services, and may conduct legally required inspections in high hazard operations.

General Strategic Approach

There is a strong emphasis on self-regulation, although prosecutions are carried out and publicized. There is also an increased tendency to rely on performance regulations and guidelines to allow employers greater flexibility in adapting to technological change. Regulations previously enforceable through the criminal law have been replaced partly by Approved Codes of Practice which tend to guide rather than direct. As reflected in the European Union Framework Directive, OHS strategy in Great Britain stresses a risk management approach designed to insure that employers' response to controlling risk is commensurate with its severity.

Great Britain - Facts and Figures

HSE

Staff: 4545 (1994)
Size of Workforce: 21.1 million
Budget (1994): 220 million pounds = $Cdn 462 million

F. Australia - Victoria and the Federal Government Role

Australia has a federal system consisting of six states, two territories, and the Commonwealth government. As in Canada, OHS is mainly a state responsibility.

The primary governmental authority for OHS in Victoria is the Health and Safety Organisation (HSO). It is directly accountable to the Minister for Industry Services, Department of Business and Employment. HSO is responsible for developing and enforcing legislation, identifying priority industries and high risk hazards, consultation, and training for managers, supervisors, and workplace OHS representatives. HSO conducts a large promotion and education campaign, including encouraging industry to adopt appropriate OHS management systems. Training and consultation are offered at no charge. HSO is also responsible for administering legislation on transportation of dangerous goods and public safety.

A tripartite Workplace OHS Advisory Committee advises the Deputy Secretary,[2] Industry Services on new regulations and other OHS issues. It is also accountable to the Deputy Secretary.

The WorkCover Authority is responsible for administering workers' compensation. Work Cover also provides the HSO with data on injuries for workplace and industry targeting. While prevention is primarily funded by government through general tax revenue, partial funding for training, education and awareness is derived through employers' assessments.

General Strategic Approach

Victoria relies on a combination of enforcement, strong emphasis on education and training, facilitation of best practice and experience rating. The primary objective of the Health and Safety Organisation is to enforce the minimum standards set by the occupational health and safety, dangerous goods, and public safety legislation and to ensure that employers, employees and the community effectively and continuously prevent workplace injury and illness. Enforcement is based on "duty of care" provisions in the legislation. As well, the HSO assists workplaces in going beyond the legislative minimum requirements to reach a higher standard. It does this by actively encouraging best practices which are characterized by integrated management systems. It also encourages best practices by incorporating a performance-based approach in legislation which involves setting a minimum health and safety standard but not prescribing the means of achieving or complying with that standard.

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[2] The equivalent of Deputy Minister in Ontario.

Understanding the complete picture of OHS administration in Victoria involves recognizing the role of the National Occupational Health and Safety Commission (NOHSC), a national coordination and facilitation body without direct enforcement powers. NOHSC provides resources for development of standards, and best practices, research including statistical analysis, assessments of chemicals, and professional education.

Worksafe Australia is the "business name" of NOHSC. The CEO of Worksafe reports both to the NOHSC and the Commonwealth Minister for Industrial Relations. NOHSC is governed by a tripartite body of 18 members. A six-member executive representing all major stakeholders acts as a Board of Directors with broad management responsibility.

NOHSC is publicly funded through general tax revenues with 85% of its funding from the Commonwealth Government. Approximately 10% of its operating budget is derived from various services, including industrial assessments and reviews, consulting including contract research, seminars and courses, and sale of publications and products.

Victoria and Australia - Facts and Figures

HSO, Victoria

Staff: 386
Budget: $A22.0 million = $Cdn 22.0 million
Workforce: 1.98 million

NOHSC

Budget: $A26.3 million (1995) = $Cdn 26.3 million
Staff: 234

G. Québec

The two key organizations are the Commission de la santé et de la sécurité du travail (CSST) and the Institut de recherche en santé et en sécurité du travail (IRSST).

The CSST operates at arm's length and reports to the Legislature through the Minister of Labour. Its essentially bipartite Board of Directors consists of 7 labour representatives, 7 business representatives and a Chair, who is also the Chief Executive Officer, appointed by government. The Commission is funded through employers' assessments except for the cost of inspections, which are reimbursed by provincial government. It is responsible for workers' compensation, establishing and enforcing occupational health and safety standards, inspection, research, training, and occupational health and safety services.

The IRSST is governed by a General Executive. It is funded mainly by the CSST. The IRSST conducts, funds, and contracts research, communicates the results of research and consulting activities, and grants graduate scholarships. It also provides the Québec public health and safety prevention network, the CSST, and joint sectoral associations with laboratory and consulting services.

General Strategic Approach

Québec relies on a mixture of education, training, enforcement, and research. The CSST also applies experience rating. A substantial portion of the prevention budget is allocated to occupational health services and research.

Québec - Facts and Figures

CSST

Prevention program budget: $90.7 million.

This figure includes payments for occupational health services ($50.5 million), contribution to the IRSST ($20.2 million), and subsidies for training and information (including $12.3 million to joint sector-based association and $7.4 million to union and employer associations). The figure does not include salaries and associated costs of the inspectorate.

IRSST

Budget: $20.2 million (from CSST - 1994)
Staff: 130

H. British Columbia

The Workers' Compensation Board (WCB) is responsible for both prevention and compensation and has operated at arm's length from government. Until recently the WCB was led by a Board of Directors consisting of labour, management and public representatives, but is now temporarily governed by a Panel of Administrators and Chair which report to the Minister of Labour. It is funded through employer assessments. The WCB establishes regulations, standards and policy and is responsible for enforcement, education, consultation services, and research.

General Strategic Approach

The prevention strategy involves a mix of enforcement, technical assistance education, and promotion. Experience rating is also applied. While prosecution through the courts is extremely rare, the Board relies heavily on penalty assessments which it imposes for violations of the Occupational Health and Safety Regulations.

The WCB is concentrating prevention efforts on high-risk industries and firms. It is expanding its practice of developing tripartite alliances for prevention programs in several sectors, including logging, trucking, and construction. Such programs already exist in health care, retail foods, and agriculture. Integration of prevention and rehabilitation is being developed by involving the Prevention Division and other divisions of the Board in joint return-to-work initiatives, including worksite visits to ensure injured workers return to job situations that prevent re-injury. With respect to inspections, a former practice of establishing inspection report quotas has been discontinued and the focus is on "quality inspections" – inspections that can have a positive effect by consulting with employers and workers and safety talks at opportune occasions. In regard to education and promotion, the Board puts an emphasis emphasizes reaching young workers and operates an active campaign on television and in the schools.

British Columbia - Facts and Figures

Workers' Compensation Board

Budget (prevention): $30 million
Staff (Prevention Division): 400
Size of Workforce: 1.7 million (includes full and part-time)

I. New Brunswick

Both prevention and compensation are the responsibility of the Workplace Health, Safety and Compensation Commission of New Brunswick. The Commission was formed in January, 1995 when the Occupational Health and Safety Commission merged with the Workers' Compensation Board. The Commission operates at arm's length from government and reports to the Legislature through the Minister of Labour.

The Commission's multipartite Board consists of three labour representatives, three business representatives, one public interest representative, one part-time Chair, and one full-time President (chosen by government). There are tripartite committees for regulation development. The Commission is funded through both WCB assessments and general revenue.

The Commission is responsible for administration and delivery of workers' compensation and occupational health and safety, including regulation and enforcement, education, prevention programs, promotion, and support for JHSCs.

General Strategic Approach

Strategy involves a mix of education and training, consultation, and enforcement, including prosecution. There is a strong emphasis on internal responsibility emphasizing the right to know, right to participate, and right to refuse dangerous work. In regard to training, the Commission presents workshops on a broad range of topics and recruits organizations to take "train the trainer" programs. A pilot program using an audit-based evaluation is currently under way. It appears that there are the beginnings of a strong integration of compensation and prevention functions. For example, compensation caseworkers noting increasing claims at a particular organization can respond quickly by communicating information to staff involved in prevention and enforcement. Experience rating is applied.

New Brunswick - Facts and Figures

Workplace Health, Safety and Compensation Commission

Staffing:	50 (from former OHS Commission) - total staff including staff from former WCB: 300
Budget:	Because of the extensive integration of prevention and compensation functions, it is difficult to establish figure for prevention alone.

J. Alberta

The Occupational Health and Safety Division of Alberta Labour has primary responsibility for prevention. It develops and enforces legislation and policy, provides technical support, audit management systems, education, makes grants, and co-ordinates the Partnerships program, an incentive program involving close co-operation with employers.

The Workers' Compensation Board is responsible for compensation and rehabilitation. It also funds five safety associations representing the following sectors: Construction, Trucking, Metal Fabricating, Petroleum, Municipal.

General Strategic Approach

There is an emphasis on voluntary compliance with legislation, facilitation of comprehensive safety systems, and voluntary incentive programs tied to workers' compensation rebates (reflected through experience rating and the Partnerships program).

The OHS Division sees its main mandate as implementing strategies and programs to encourage employers and workers to assume primary responsibility for workplace health and safety. One mechanism for achieving this is the Partnerships program, a co-operative venture of industry, labour and the WCB. It is designed to encourage and assist employers to develop, implement and evaluate OHS programs appropriate to their workers and workplaces. A fundamental goal is to make OHS a normal part of doing business. Prosecution is not widely used but is still an essential component.

Health and safety committees are not mandatory but are encouraged. There is a developing emphasis on OHS in schools and communities. There is also an emphasis on increasing delegation of services to non-profit and other private sector organizations. Alberta Labour is seriously considering integration of OHS functions with other labour regulation functions. In such a model, the same inspectors could be responsible for employment standards as well as OHS.

The basic mechanism for stakeholder input is the multipartite Occupational Health and Safety Council. The Council advises the Minister of Labour, reviews applications for OHS Heritage Grant Program funding, and hears appeals of inspectors' orders.

Alberta - Facts and Figures

Alberta Labour OHS Division

Budget: $12 million (6 million from WCB)
Staff: 70 field staff (not including support staff)
Workforce: 1.3 million

Workers' Compensation Board

Funding for 5 Safety Associations: $2.93 million (1994)

The following table summarizes the organizational responsibilities for occupational health and safety in the 10 jurisdictions covered in this report.

ORGANIZATIONAL RESPONSIBILITIES IN OHS FOR TEN JURISDICTIONS

JURISDICTION	FUNCTION				
1. UNITED STATES (Federal)	*Regulation and Enforcement*	*Prevention Programs*	*Incentives*	*Research*	*Workers' Compensation*
▪ OSHA	✓	✓	✓		
▪ NIOSH		✓		✓	
▪ National Advisory Committee of OSH	X	X	X	X	
2. FINLAND	*Regulation and Enforcement*	*Prevention Programs*	*Incentives*	*Research*	*Workers' Compensation*
▪ Ministry of Labour	✓	✓		✓	
▪ Ministry of Social Affairs and Health	✓	✓			
▪ Advisory Board for Occupational Health Care	X	X	X	X	
▪ Finnish Institute for Occupational Health		✓		✓	
▪ Finnish Work Environment Fund		✓		✓	
▪ Centre for Occupational Safety		✓			

▪ = Advisory

JURISDICTION	FUNCTION				
3. GERMANY	*Regulation and Enforcement*	*Prevention Programs*	*Incentives*	*Research*	*Workers' Compensation*
Federal Ministry for Labour and Social Affairs	●				
State Labour Ministries	✓				
Federal Institute for OSH		✓		✓	
BG Institute for Occupational Safety		✓		✓	
German Standards Institute	○				
Accident Insurance Associations	✓	✓	✓		✓
. GREAT BRITAIN	*Regulation and Enforcement*	*Prevention Programs*	*Incentives*	*Research*	*Workers' Compensation*
Health and Safety Commission (HSC)	✓	✓			
Health and Safety Executive (HSE)	✓	✓		✓	

= Legislation development only

= Standards development only

JURISDICTION	FUNCTION				
5. VICTORIA	*Regulation and Enforcement*	*Prevention Programs*	*Incentives*	*Research*	*Workers' Compensation*
▾ Health and Safety Organization Victoria	✓	✓		✓	
▾ Workplace OHS Advisory Committee	X	X	X	X	
▾ WorkCover Authority			✓		✓
6. AUSTRALIA-Commonwealth	*Regulation and Enforcement*	*Prevention Programs*	*Incentives*	*Research*	*Workers' Compensation*
▾ National Occupational Health and Safety Commission	X	✓	X	✓	
7. QUEBEC	*Regulation and Enforcement*	*Prevention Program*	*Incentives*	*Research*	*Workers' Compensation*
▾ Commission de la santé et de la sécurité du travail (CSST)	✓	✓	✓		✓
▾ Institut de recherche en santé et en sécurité du travail du Quebec (IRSST)				✓	

= Advisory

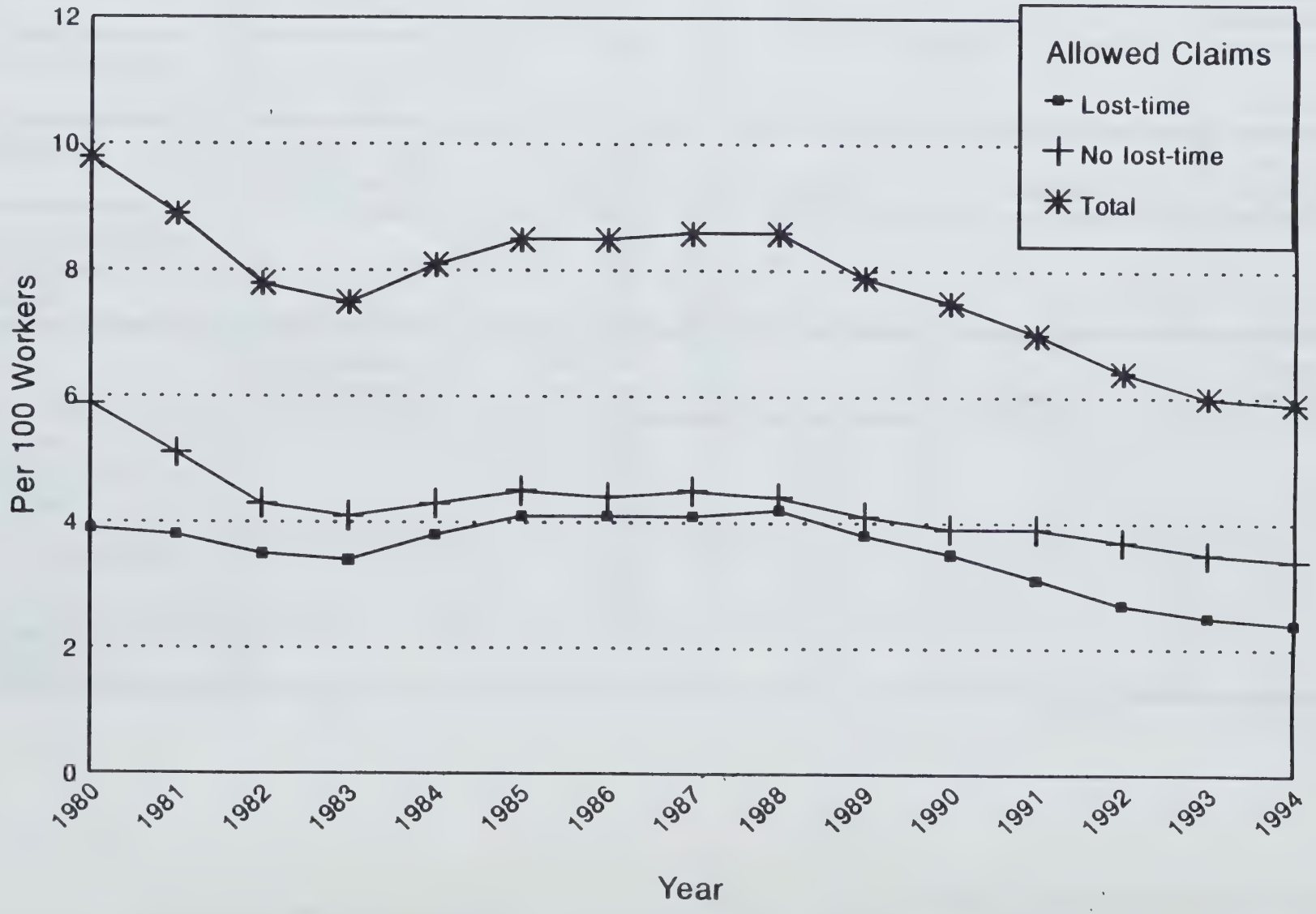
JURISDICTION	FUNCTION				
3. **BRITISH COLUMBIA**	*Regulation and Enforcement*	*Prevention Programs*	*Incentives*	*Research*	*Workers' Compensation*
Workers' Compensation Board	✓	✓	✓	✓	✓
9. **NEW BRUNSWICK**	*Regulation and Enforcement*	*Prevention Programs*	*Incentives*	*Research*	*Workers' Compensation*
Workplace Health, Safety and Compensation Commission	✓	✓	✓	✓	✓
10. **ALBERTA**	*Regulation and Enforcement*	*Prevention Program*	*Incentives*	*Research*	*Workers' Compensation*
Alberta Labour (Occupational Health and Safety Division)	✓	✓	✓	✓	
Workers' Compensation Board		✓	✓		✓
Occupational Health and Safety Council	X	X	X	X	

= Advisory

Appendix C

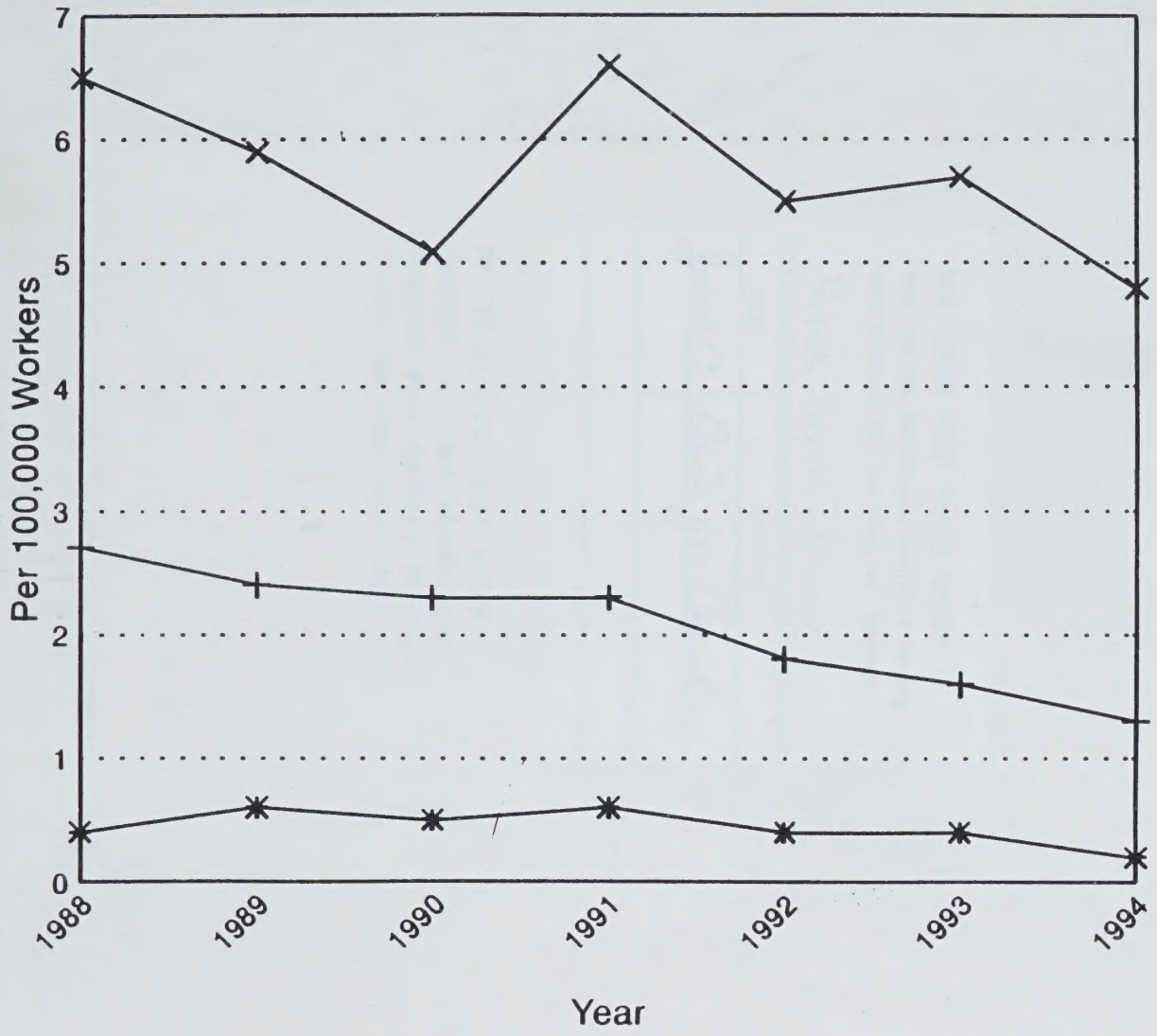
Trends in Health and Safety in Ontario

Ontario Injury/Disease Frequency Rates 1980-1994



Source: 1. Ontario WCB Statistical Supplements.

Ontario Occupational Fatality Frequency Rate 1988-1994



By Year Allowed

- Immediate Deaths
- Non-Immediate Deaths
- Total**

** Total includes diseases, 100% pensions, immediate deaths and non-immediate deaths.

Source: 1. Ontario WCB Statistical Supplements.
2. Statistics Canada, The Labour Force Survey.

Workplace Health and Safety Agency

HD 7262 H82 1995 WCAT
Rep. of the Workplace Health & Safety Review Panel to the Min. of Labour.
Brock-Smith. Chair.

DATE	ISSUED TO
June 13	Dina for Carole.

HD 7262 H82 1995 WCAT
Report of the Workplace Health and Safety Review Panel to the Minister of